

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA)
)
v.) Criminal No. 3:02CR00264 (AWT)
)
WALTER A. FORBES)

RULING ON FORBES' RETRIAL MOTION IN LIMINE NO. 2

**(Motion of Defendant Walter A. Forbes to Preclude the Government
from Presenting Evidence, Cross-Examination, or Argument
Concerning the Charging of Mr. Forbes' Airplane Expenses to the
Cendant Merger Reserve)**

For the reasons set forth below, defendant Forbes' motion *in limine* is being granted, subject to the condition that he does nothing to open the door to the admission of such evidence.

There is substantial other evidence as to the existence of the unlawful agreement charged in the indictment, and the charging of these airplane expenses to the Cendant merger reserve is not one of the overt acts charged in the indictment. Also, this evidence has no probative value on the question of whether defendant Forbes knowingly and willfully became a member of the conspiracy and did so with the requisite unlawful intent.

However, because this evidence relates to defendant Forbes' expenses and includes a form signed by defendant Forbes, even though defendant Forbes was not involved in the decision to charge the expenses to the Cendant merger reserve, the jury could be confused or misled by the evidence to believe that defendant

Forbes was somehow involved in the decision or had knowledge of it. Thus, the court concludes that the probative value of this evidence is substantially outweighed by the danger of unfair prejudice or misleading the jury and it should be excluded pursuant to Fed. R. Evid. 403.

Accordingly, the Motion of Defendant Walter A. Forbes to Preclude the Government from Presenting Evidence, Cross-Examination, or Argument Concerning the Charging of Mr. Forbes' Airplane Expenses to the Cendant Merger Reserve (Doc. No. 1660) is hereby GRANTED.

It is so ordered.

Dated this 12th day of November 2005 at Hartford,
Connecticut.

_____/s/
Alvin W. Thompson
United States District Judge